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REMARKS

In the Office Action mailed February 10, 2006, the Examiner imposed a restriction of claims 1-39. The Examiner identified five species in the pending application. The Examiner's classification of the species included the following groups:

Group A	species of figure 4,
Group B	species of figure 5,
Group C	species of figure 7,
Group D	species of figure 9, and
Group E	species of figure 11

In response to the restriction requirement, Applicant filed a timely Election and Response on March 13, 2006, in which Group B was elected with traverse, as deemed drawn to claims 1-13, 17-18, 20-35 and 38-39. The Examiner made the Restriction final and withdrew claims 1-13, 17-18, 20, 24-28, 32-35 and 38-39 from consideration in the Office Action mailed March 29, 2006.

In the original Restriction of February 10, 2006, the Examiner stated that "Applicant is required under 35 U.S.C 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable" and that "[c]urrently, it appears that no claim is generic." The Examiner provided no other basis for concluding that the figures contain five (5) patentably distinct species.

Responsive thereto, Applicant argued that the Examiner's restriction requirement was improper and that species are always the specifically different embodiments of an invention. Applicant pointed out that Figure 7 is a perspective view of that shown in Figure 5 and, as such, the Examiner's inclusion of Figure 7 as a distinct species group was improper. Applicant further argued that Figure 4 was not a specifically different embodiment of the invention as called for in the MPEP but rather a schematic of an integrated current sensing system of the invention. As such, Applicant argued that the Examiner's inclusion of Figure 4 as a distinct species group was improper.

In the Office Action of March 29, 2006, the Examiner stated that none of the arguments set forth by Applicant were found persuasive and that "the apparatus of figures 4 or 7 does not disclose a printed circuit board includes [sic] two fingers for mounting the hall effect sensors and a conductive path includes [sic] at least one spiraled portion configured to encircle at least a portion of the pc board." *Office Action, March 29, 2006, p. 2*. The Examiner went on to state that "the species of figure 5 is different from the species of figures 4 and 7" and that "the species of figure 7 includes a housing configured to position the first and second hall effect sensors about

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the conductor, this feature is not found in the elected species of figure 5." *Id. at 3*. The Examiner's conclusions do not rise to the level of distinct species between Figs. 4, 5 and 7. Further, as will be shown below, the Examiner has failed to satisfy the burden to show distinctness between species under MPEP 806.04(b).

In the Restriction Requirement of February 10, 2006, the Examiner stated that "the Application contains claims directed to five patentably distinct species." The MPEP states that "species may be either independent or related under the particular disclosure." *MPEP 806.04(b)*. In either case, a burden is placed on the Examiner to show that the species are in fact either independent, or related as disclosed and distinct as claimed. If the Examiner claims that the species are independent inventions, he must show that they "are not connected in any of design, operation or effect under the disclosure." *Id.* Alternatively, where there is a relationship disclosed between distinct species, "then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 - § 806.05(j)." *Id.* In imposing the restriction, the Examiner failed to satisfy the burden of showing that the species are either independent or related as disclosed and distinct as claimed. That is, the Examiner failed to either show that the species were not connected in design, operation, or effect, or alternatively, that the restriction was proper under both the practice applicable to election of species and the practice applicable to other types of restrictions. As the Examiner has failed to satisfy this burden under MPEP 804.04(b), the restriction is improper.

Also, as stated in MPEP §803, "Examiners must provide reasons and/or examples to support conclusions... to support the restriction requirement." The Examiner's statement that Figure 7 "does not disclose a printed circuit board includes [sic] two fingers for mounting the hall effect sensors and a conductive path includes [sic] at least one spiraled portion configured to encircle at least a portion of the pc board" is contrary to what is shown therein. *See Office Action, supra at 2*. Fig. 7 clearly shows a printed circuit board having two fingers for mounting the hall effect sensors and a conductive path having at least one spiraled portion configured to encircle a portion of the PC board.

Furthermore, as is disclosed in the current application, that which is shown in Figs. 5 and 7 is configured to include various systems and components as described with respect to Fig. 4. *See Application, p. 15 ¶66 and p. 17 ¶71*. The system shown in Fig. 4 is an integrated current sensing system, which includes that shown in Figs. 5. Thus, Fig. 4 is not a "different species" from Figs. 5 and 7 as characterized by the Examiner. As stated earlier, "[s]pecies are always the specifically different embodiments" of an invention. *MEPE 806.04(e)*. As the Examiner has

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failed to show how Fig. 4, Fig. 5, and Fig. 7 are "specifically different embodiments", the restriction requirement cannot be upheld and must be deemed improper.

In sum, the Examiner has not satisfied the burden to show restriction between the species of Groups A-E as required in MPEP 806.04(b). Additionally, Applicant believes that the alleged species discussed above are not "specifically different embodiments" as claimed by the Examiner.

In addition to the improper restriction, the Examiner also improperly limited the claims that read on the elected species. That is, while claims 1-13, 17-18, 20-35, and 38-39 read on the elected species, the Examiner improperly withdrew claims 1-13, 17-18, 20, 24-28, 32-35, and 38-39 from consideration. Therefore, in addition to the reasons set forth above in support of rejoinder of all claims, Applicant at least requests that the claims reading on the elected species identified above be examined.

For at least these reasons, Applicant respectfully requests that the restriction be withdrawn. Accordingly, Applicant respectfully requests rejoinder of all claims.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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Dated: June 28, 2006
Attorney Docket No.: ETC7455.066

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¹ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.